

Remarks/Arguments

Twenty four (24) claims are currently pending.

Claims 1, 2, 8, 18, 19, and 22-24 have been amended to replace “utilising” with “utilizing”.

Claim 16 has been amended to specify “said sending”.

The Examiner rejected Claims 1-7, 10, 12-17 and 22-24 as being anticipated by U.S. 6,581,157 to Chiles. The Applicant respectfully traverses this rejection.

Claim 15 recites sending a request to a third party hardware requesting identification information and an existing firmware version indicator and receiving a reply from the third party hardware with the requested identification information and version indicator. In contrast, Chiles only discloses checking or retrieving a device version stored in the non-volatile memory of a device (col. 7, ll. 40-43; col. 8, ll. 35-37; col. 9, ll. 48-58). Chiles does not disclose requesting and receiving from a third party hardware identification information along with a firmware version indicator. It is submitted that in the embodiments disclosed by Chiles, there is no need to retrieve identification information other than the device version because it appears that the version manager is device specific. Therefore, Chiles does not disclose all of the elements recited in Claim 15. Thus, Claim 15 and its dependents, Claims 16 and 17, cannot be anticipated by Chiles and are allowable over the references of record.

Similarly, amended Claims 1 and 22 each include requesting and receiving identification information from a third party hardware. Thus, these claims and their dependents also cannot be anticipated by Chiles and are allowable over the references of record.

Each of Claims 23 and 24 recites retrieving upgrade firmware from a source over a WAN. In contrast, Chiles does not disclose retrieving upgrade firmware from a source over a WAN. Chiles discloses converting the memory image in a non-volatile memory of a device to the updated memory image. In all of the embodiments disclosed in Chiles, the updated memory image is located locally (see for example, figures 2 and 3, references 134, 182 and 234; column 8, lines 35-41; column 9, lines 34-36; column 10, lines 8-20; and Claims 1 and 12) and is not retrieved over a WAN. Since Chiles does not disclose all of the limitations of Claim 23 or Claim 24, Claims 23 and 24 cannot be anticipated by Chiles and are allowable over the references of record.

The Examiner also rejected Claims 8-9, 11 and 18-21, as being obvious over Chiles in view of US 5,960,189 to Stupek. The Applicant again traverses the rejection. Specifically, the Examiner relies on Chiles for disclosing (1) the feature of requesting and receiving identification information in Claims 8-9 and 11; and (2) the feature of retrieving upgrade firmware from a source over a WAN in Claims 18-21. As discussed above, Chiles does not disclose either of these features. Since Chiles and Stupek, either alone or in combination, do not teach or suggest either of these features, it is submitted that Claims 8-9, 11, and 18-21 are not obvious over Chiles in view of Stupek and are allowable over the references of record.

Application No.: 09/878,346

Art Unit No.:2124

Page 11

No new matter has been amended by way of these amendments.

The Applicant respectfully requests that a timely notice of allowance be issued in the case.

Respectfully submitted,



Ronald D. Faggetter
Registration No. 33,345
SMART & BIGGAR
438 University Avenue
Suite 1500, Box 111
Toronto, Canada M5G 2K8
Telephone: (416) 593-5514
Facsimile: (416) 591-1690

September 22, 2004
Toronto, Ontario
RDF/JJP/jjl
91436-335
Enclosures